# PLANNING AND ZONING COMMISSION

STAFF REPORT

May 16, 2013



# Rezoning case no. RZ12-08: WBW Land Investments, LP

**CASE DESCRIPTION:** a request to change the zoning classification from Agricultural-Open

District (A-O) to Planned Development District – Housing (PD-H)

**LOCATION:** 166.2 acres of land out of the Zeno Phillips League, Abstract No. 45 and

the T. J. Wooten League, Abstract 59 located generally north of the Oak Meadow and Autumn Lake Subdivisions and along the west side of Chick Lane between West Villa Maria Road and Leonard Road in Bryan,

Brazos County, Texas

**APPLICANT(S):** WBW Land Investments, LP

**AGENT(S):** Yalgo, LLC

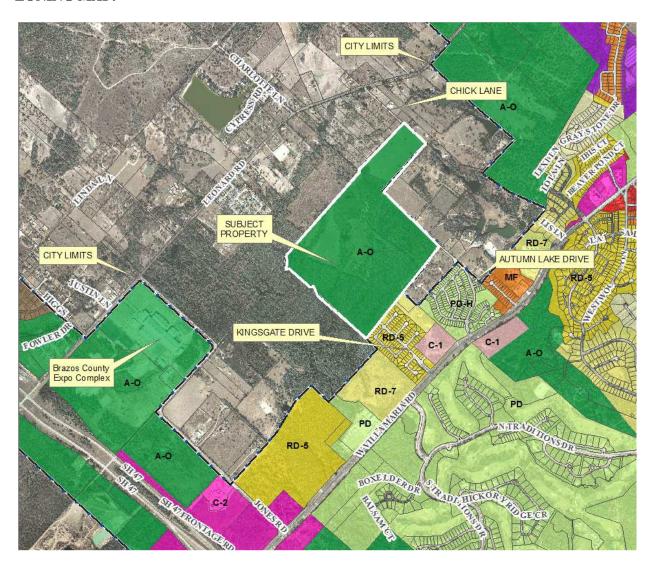
**STAFF CONTACT:** Martin Zimmermann, Planning Administrator

SUMMARY RECOMMENDATION: Staff recommends approving the requested PD-H

zoning district, **subject to** the requirement that minimum 7.5-foot building setbacks apply throughout the development and **subject to** some modifications to the development plan drawing, as described on pages 12 and

13 of this staff report.

# **ZONING MAP:**



#### **BACKGROUND:**

The subject property is 166.2 acres in size and located just north of the Oak Meadow and Autumn Lake Subdivisions and along the west side of Chick Lane between West Villa Maria Road and Leonard Road. The subject property is owned by WBW Land Investments, LP (WBW). The property was annexed to the City of Bryan at the request of WBW in April 2012. WBW desire to subdivide and develop this property into a master-planned, single-family residential subdivision. They are proposing to establish a Planned Development – Housing District (PD-H) on these 166+ acres.

On March 1, 2012, the Planning and Zoning Commission held a public hearing to consider a similar request for PD-H zoning by the same applicants (case no. RZ11-06). The Commission unanimously voted to deny that request for PD-H zoning and instead recommended to the City Council that the property be zoned Agricultural – Open District (A-O) upon annexation. Following the Commission meeting, WBW withdrew their original request for PD-H zoning.

WBW submitted a new application and development plan for PD-H zoning district on this property for review by the City's Site Development Review Committee (SDRC) on March 15, 2012 (case no. RZ12-03). The SDRC provided comments in response to that submission on March 27, 2012 and to a subsequent revision on April 10, 2012. Several SDRC members still had concerns regarding the proposed PD-H zoning development plan when it was scheduled for consideration by the Planning and Zoning Commission during its meeting on April 19, 2012 at WBW's request. During that meeting, the Commission recommended approval of the rezoning request to the City Council by a vote of 5 to 3, subject to the condition that the portion of the proposed east-west collector between Kingsgate and Autumn Lake Drives is built with 27 feet of pavement by the developer. The item was scheduled for City Council consideration on May 15, 2012. On May 14, 2012, WBW requested that Council's consideration be postponed until the Council's regular meeting on June 12, 2012. On June 11, 2012, WBW withdrew that rezoning request.

WBW submitted the current application and development plan for PD-H zoning (case no. RZ12-08) on June 27, 2012. The SDRC provided comments in response to that application on July 10, 2012 and to subsequent revisions on September 4 and November 20, 2012 as well as April 2 and April 30, 2013. The SDRC's April 30, 2013 comments are attached to this staff report.

A Planned Development (PD) zoning district is one in which the type and extent of activities allowed there (as well as standards for their development) are tailor-made to meet the particular characteristics of a specific site. PD Districts may successfully be used to guarantee site-specific features which City Council finds necessary for certain developments to be compatible and practical in particular environments.

#### PROPOSED PD-H ZONING DEVELOPMENT PLAN:

WBW proposes the creation of 613 single-family residential lots on these 166+ acres. The property is proposed to be developed in 9 subdivision phases, as shown on the attached development plan. The development plan shows that the development of lots with duplexes shall be allowed in Phases 6 and 7. On lots zoned Residential District – 5000 (RD-5), the development of duplex lots requires prior approval of a Conditional Use Permit from the Planning and Zoning Commission for each lot. The development plan does not specify, but staff assumes that the developers propose to allow duplexes in these two subdivision phases as of right, without prior Conditional Use Permit approval, as part of this PD-H District.

# **Bulk Regulations**

Bulk regulations are the combination of controls (lot size, lot coverage, open space, yards, height and setback) that determine the maximum size and placement of a building on a lot. WBW proposes to adhere to bulk regulations that generally apply to lots zoned Residential District – 5000 (RD-5), with the following exceptions:

- 1. minimum lot width for 25% of the lots in this development: 45 feet (regularly 50 feet); of the remaining lots, 60% are proposed to be at least 50 feet wide, 10% are proposed to be at least 55 feet wide and 5% are proposed to be at least 70 feet in width.
- 2. minimum side building setback: 5 feet (regularly 7.5 feet).
- 3. minimum front building setbacks on lots in proposed Phases 6 and 7: 15 feet (regularly 25 feet)

Staff has no objections to allow 25% of the lots in this 613-lot development to have lot widths of only 45 feet (approximately 154 lots) so long as other minimum bulk regulations (lot size and building setbacks) will help assure that the lots are large enough for reasonable development with single-family homes.

It is noteworthy that reduced lot widths in other Bryan developments have created citizen complaints about a considerable amount of on-street parking and intersection sight distance issues as well as operational issues such as limited access for emergency vehicles. While on-street parking regulations usually resolve most of the operational issues, citizens are, understandably, very passionate about and opposed to giving up their "rights" to park on the street after the neighborhood is already developed.

Staff also has no objections to reducing the minimum front building setbacks of the 71 lots proposed in Phases 6 and 7 (potential duplex lots) to 15 feet. This will allow for a planned flexibility in the design and build out of these two subdivision phases, and allow potential variety of housing types as part of this development, while still maintaining a minimum degree of open space. **Staff recommends, however, that the following note be added to the development plan in consideration of Land and Site Development Ordinance Section 62-169 (Duplex Requirements): "Lots to be developed with duplexes in Phases 6 and 7 of this development shall have a minimum lot width of 70 feet and minimum area of 7,000 square feet." Adding this note will help avoid confusion about minimum lot requirements when duplexes are proposed to be built here in the future.** 

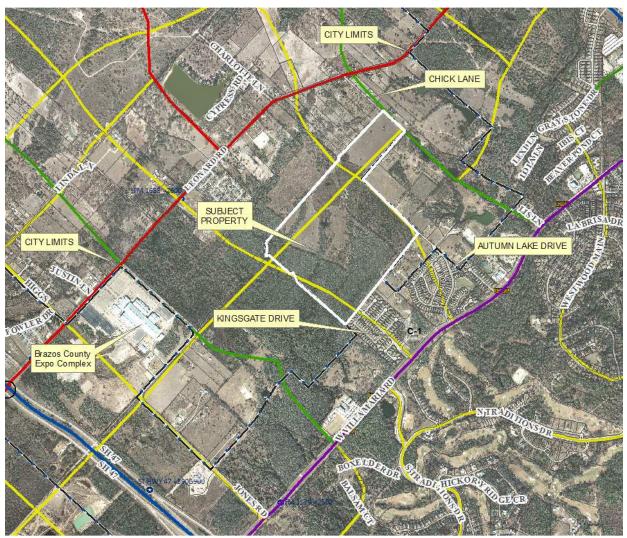
**Staff is <u>not</u>** inclined to recommend that the side building setbacks in this proposed development be reduced to 5 feet. During the SDRC review process, the City's Fire Marshal repeatedly stated his concerns about the proposed reduction of minimum building setbacks. Reducing side building setbacks increases the opportunity to have an extension of fire from one house to the next. It is important to note that the International Residential Code which the City of Bryan adopted allows for a reduction of side building setbacks to 5 feet so long as a structure has a sprinkler system, yet Texas State law prevents the City from requiring residential sprinkler systems. For safety reasons, the Fire Marshal believes that minimum 7.5-foot side building setbacks required by ordinance should not be negotiated.

# Thoroughfare Plan, Collector Streets, Local Streets

The development plan proposes a network of local streets, which, once fully built-out, will connect all phases of this subdivision with local streets with a 50-foot right-of-way and at least 27 feet of pavement. The City's Thoroughfare Plan envisions three collector-type streets transecting the subject property:

- 1. a northward extension of Autumn Lake Drive in general alignment with parts of Chick Lane;
- 2. a northward extension of Kingsgate Drive; and
- 3. an east-west major collector between Chick Lane and a tributary to Turkey Creek.

The Thoroughfare Plan, which was adopted as part of the City's Comprehensive Plan Update in January 2007, was developed in accordance with conventional thoroughfare planning guidelines. The guidelines suggest that thoroughfares should be spaced as follows: major arterials at 1 mile (5,280 feet), minor arterials/major collectors at ½ mile (2,640 feet), and minor collectors at ¼ mile (1,320 feet). The area proposed to be developed is 166+ acres in size. If one subtracts the "panhandle" area (about 20 acres) to the northeast, which leaves 146 acres, a rectangular-shaped piece of land measuring roughly 2,500 ft x 2,600 ft. Given these land dimensions and the scale of the proposed development, the three collector streets envisioned by the Comprehensive Plan will help establish an adequate roadway system to support the proposed 613 lot residential subdivision.



excerpt from Bryan's Thoroughfare Plan

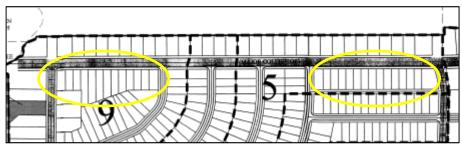
WBW's development plan proposes to extend Kingsgate and Autumn Lake Drives with the same right-of-way widths (60 feet) and pavement widths (38 feet) as the already developed street segments have in the Oak Meadow and Autumn Lake Subdivisions. The proposed Autumn Lake Drive extension would align with parts of Chick Lane, which currently is only a gravel road with less than 50 feet of right-of-way.

While no lots are proposed to take direct access from the Autumn Lake Drive extension, single-family lots are proposed to front the extension of Kingsgate Drive and the new east-west major collector that is proposed to be constructed with Phases 5 thru 9 of the development. This is not ideal from a

transportation planning standpoint because residential homes will be fronting a busy street and multiple driveway accesses can inhibit the flow of traffic on that street. Ideally, collector streets provide a mix of mobility and access: good mobility for motorists on that street and good access to more minor streets (i.e., residential streets). Driveway access on collector streets is purposefully limited so as to not inhibit the flow of traffic.

Access standards included in the Land and Site Development Ordinance (Section 62-296) stipulate that if a single-family dwelling "can only be accessed by an arterial or collector street, then adequate maneuvering space must be provided, as vehicles will not be allowed to back directly into these streets" (Section 62-296(a)(7)). The proposed development plan includes a note that reads "Lots fronting Kingsgate and major collector shall have a driveway so vehicles will not need to back on to Kingsgate or major collector." Staff recommends that the development plan note be amended in consideration of Section 62-296(a)(7) to read as follows: "Lots fronting Kingsgate Drive and the major collector shall have adequate maneuvering space so vehicles will not be allowed to back directly into these streets."

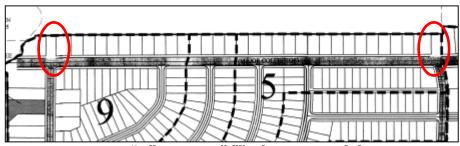
It appears that 13 lots proposed on the south side of Kingsgate Drive in Phase 9 and 14 lots on the south side of Kingsgate Drive in Phase 5 will be too narrow to allow for development with single-family homes and sufficient maneuvering space with driveway access to the major collector.



narrow lots proposed along east-west collector

While the 14 proposed lots in Phase 5 will have alley access, the 13 proposed lots in Phase 9 are not proposed to have alley access. While staff is confident that amending the development plan note as recommended above will help guarantee adequate maneuvering space to each lot, developing these lots with homes and maneuvering space may prove to be challenging in the future.

Staff recommends that the extensions of Autumn Lake and Kingsgate Drives north of the major collector be depicted on the development plan using the same grey "collector street" fill color used for depicting the remainder of these streets to help avoid confusion. These street extensions are currently not colored and could be mistaken for lots.



grey "collector street" fill color recommended

#### East-West Collector

WBW proposes to dedicate 80 feet of right-of-way for the east-to-west major collector street proposed near the northern boundary of this property and improve this major collector street with at least 27 feet of pavement at the time of development, which is the equivalent of a local residential street section, rather than the collector-street width of 54 feet of pavement. The City's Thoroughfare Plan, adopted by City Council in January of 2007, shows this east-west collector street connection in general alignment with Jones Road to the far west and a portion of what is now Chick Lane to the east.

It is important to note that not requiring complete major collector street improvements to this new roadway at the time of development may obligate a future City Council to appropriate funds for improving a portion of this street as part of a Capital Improvement Plan project. In this particular case, however, staff has no objections to this exception to standards for subdivision design and allow the developer to improve the east-west collector to only local residential street standards. While the Subdivision Ordinance generally requires developers to install all public infrastructure, including streets, "in accordance with the adopted plan and design guideline manual" (Subdivision Ordinance Section 110-59(a)(1)(a), staff believes that the proposed 27-foot wide pavement of this roadway will be adequate to meet the transportation needs of this development at least until such time when the street is extended to the east and/or west to connect with other future developments in the area.

# Memorandum of Understanding needed for Autumn Lake Drive extension

The northward extension of Autumn Lake Drive over what is now called Chick Lane will require the County's approval, as there is an approximately 520-foot long section of this roadway that is not located in Bryan's City limits. The City and County staff have agreed to prepare a Memorandum of Understanding (MOU) that would allow the City of Bryan to maintain this segment between the proposed extension of Autumn Lake and existing Autumn Lake Drive that will be constructed as a curb-and-gutter street but remain within the County (not annexed into Bryan). This MOU would be subject to City Council and Commissioner's Court approval.





Chick Lane as seen from the northern terminus of Autumn Lake Drive

# Sidewalks

WBW proposes to provide sidewalks on both sides of all public streets as required by subdivision regulations.

#### Traffic Signal/Turn Lane Analysis

At the request of City staff, the developer retained Alliance Transportation Group, Inc. of Austin, Texas to perform a traffic signal/turn lane analysis for the intersections of West Villa Maria Road and Kingsgate Drive and West Villa Maria Road and Autumn Lake Drive (see attached). The purpose of this analysis was to determine if traffic signals and/or turn lanes would be warranted at these intersections with the development of this new subdivision in the future. The study concluded the following:

- 1. That neither left nor right turn deceleration lanes need to be constructed for existing conditions.
- 2. That approximately 80% of the subdivision (i.e., at least Phases 1 7) could be developed before the intersection of West Villa Maria Road and Autumn Lake Drive would meet signal warrants. At such time that the signal is installed, the study suggests adding turn lanes.

Neither of these off-site improvements to mitigate traffic-related concerns will be the responsibility of the developer under current City ordinances or policies. Instead, any such traffic system improvements will likely have to be funded as part of future Capital Improvement Plan projects, in cooperation with the Texas Department of Transportation (TxDOT) as West Villa Maria Road (F.M. 1179) is a state roadway.

# Parkland and Common Area/Open Space/Detention Pond Maintenance

On February 21, 2012, the City's Parks and Recreation Advisory Board accepted the proposed 9.6-acre parkland area for dedication by the developer, as shown on the development plan. The Board's approval was made subject to the following conditions:

- 1. that the minimum acreage required by subdivision regulations (1 acre for every 74 lots) be dedicated:
- 2. that a secondary means of access be provided along the western side of the park, either by means of a drive or a non-motorized path; and
- 3. that the parkland shall not be used for stormwater detention/retention purposes.

The entire parkland is proposed to be dedicated by separate instrument contemporaneously with the recording of the final plat for Phase 1 of the development. It is important to note that subdivision regulations in addition to parkland dedication also require the payment of parkland development fees. The parkland development fees due for a development with 613 single-family residential lots would be \$219,454 (\$358 per lot).

The development plan also shows the reservation of 22.9 acres of open space and a stormwater detention pond area. The natural vegetation and unbuildable creeks in these open space areas are proposed to be preserved. The City of Bryan requires that a Homeowners Association (HOA) or some other entity be responsible for continued maintenance of common areas, open spaces and private stormwater detention facilities. WBW has indicated that they will create an HOA. The development plan also shows a 30-foot wide access be provided along the western side of the proposed park as requested by the Parks and Recreation Advisory Board.

# Water Utilities

Currently this property within the water certificates of convenience and necessity (CCNs) of Bryan and Wellborn Special Utility District (WSUD). A CCN holder has the exclusive right to sell water within its CCN area. WSUD currently has the water CCN along Chick Lane, which includes Phases 1 and 2 of this proposed development. Any development along this road within 200-feet may require WSUD's infrastructure to be upsized. Alternatively, the affected area could be de-certified by WSUD and become part of Bryan's CCN. The Public Works Director has advised that any expenses incurred due to this process to move all lots into the Bryan CCN will be the responsibility of the developer.

#### RELATION TO BRYAN'S COMPREHENSIVE PLAN:

The City of Bryan adopted a new Comprehensive Plan in January 2007. The plan includes policy recommendations related to the various physical development aspects of the community. The Comprehensive Plan states that it is a goal of the City to achieve a balanced and sustainable mix of land uses within the City by planning for a mix of land use types in suitable locations, densities and patterns. City-wide land use policies articulated in the Comprehensive Plan suggest that single-family residential land uses should be located in areas that are: (1.) protected from but accessible to major roadway network, commercial establishments, work places and entertainment areas; (2.) accessible to collector and arterial streets, but directly accesses local streets; and (3.) not adjacent to major arterials or freeways without adequate buffering and access management. The issue of housing stock is of major concern in the Comprehensive Plan. Applicable to this case is the view that clustering lower priced housing in one area is detrimental to the healthy growth of the area as a whole. Also noted in the Comprehensive Plan is the fact that there is a lack of middle-market housing available in Bryan and the probability that a lack of new construction of these types of houses will have a negative impact on Bryan I.S.D.

The City of Bryan's Southwest Bryan's Highest and Best Use Study (adopted by Council Resolution No. 3197 on February 24, 2009) envisions low-density residential land use for this property. Included in the report is a comprehensive market study of the area within which the subject property is located (excerpt attached). Based on the findings of their research, the authors have predicted levels of development that

will be supportable for the next 15+ years. According to the data, assuming significantly improved conditions than those that existed at the time of the study in 2009, the market may support only 650 single-family detached residences valued at less than \$250,000 in the study area over the next 15+ years. When considering houses priced at less than \$150,000, the number drops to 255. Further, the report indicates the demand for mid-level and over \$250,000 houses will crowd out the market for starter homes in the area within ten years. This will only occur if adequate long-range planning and implementation of enhanced standards are employed.

#### **ANALYSIS:**

In making its recommendation regarding a proposed zoning change, the Planning and Zoning Commission shall consider the following factors.

1. Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned; relationship to general area and the City as a whole.

The subject property is located in an area that is sparsely developed. Adjacent properties are either vacant or developed with single-family homes on estate-type lots of at least one acre in size. Staff believes that a master-planned, low-density single-family residential subdivision will be compatible with existing and anticipated land uses in the surrounding area. The proposed variations in lot widths throughout this development and with only 25% (=154 lots) of the lots being 45 feet in width it is more likely that a diverse mix of single-family housing types will be attracted by this subdivision, rather than just lower priced units. Allowing duplexes on up to 71 lots in this 613-lot development by right, as proposed by the developer, will add to the potential for a variety of housing types. A single-family residential subdivision here would therefore be consistent with land use recommendations of the Comprehensive Plan and the Southwest Bryan Highest and Best Use Study.

2. Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area and shall note the findings.

City of Bryan utilities will be available for this development for point-of-use extension based on applicable utility extension polices and/or ordinances. Staff has not received any feedback from franchised utility companies that any utility services would not be available in this proposed subdivision. WBW have been made aware of the existing utility capacities and the requirement to extend public infrastructure to and through this property in accordance with existing standards. Staff is not aware of any circumstances that would prevent this property from having access to required utilities. However, as mentioned above, WSUD's infrastructure might need to be upsized or the affected area de-certified so that Bryan can provide water to all the lots within this development. WBW has indicated that they are not agreeable to pay for a CCN transfer.

3. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances which may make a substantial part of such vacant land unavailable for development.

The closest vacant land zoned for single-family residential development is located immediately south of the subject property in the Autumn Lake Subdivision. Staff believes that if a zoning proposal for a single-family residential subdivision were approved for this property, then this

would not make land classified for similar development in the vicinity and elsewhere in the City unavailable for development.

4. The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change.

Staff contends that single-family residential developments are developing at an average pace in this general vicinity and elsewhere in the City.

5. How other areas designated for similar development will be, or are unlikely to be affected if the proposed amendment is approved, and whether such designation for other areas should be modified also.

Staff believes that if a zoning proposal for a single-family residential subdivision were approved for this property, there would be no need to modify the zoning designation for other areas designated for similar developments.

6. Any other factors affecting health, safety, morals, or general welfare.

Staff is concerned that the reduced building setbacks proposed for this development could increase the risk of conflagration of fire. Staff believes that these safety risks may be prevented if typical 7.5-foot side building setback standards were adhered to.

In addition, the Planning and Zoning Commission shall not approve a planned development if it finds that the proposed planned development does not conform to applicable regulations and standards established by Section 130-125 of the Zoning Ordinance:

1. Is not compatible with existing or permitted uses on abutting sites, in terms of use, building height, bulk and scale, setbacks and open spaces, landscaping, drainage, or access and circulation features, within the standards established by this section.

While the proposed use and development of this site may be compatible with existing residential land uses on abutting properties, staff remains concerned that the proliferation of reduced setbacks and lot widths will exacerbate operational problems that are already evident in other single-family residential subdivision where similar standards were previously adopted (e.g., in the Symphony Park Subdivision). The impact of the proposed reduced building setbacks on such a large scale will have the cumulative effect of reducing the overall amount of open space on individual lots in the development. By limiting the locations of buildings on a lot, minimum building setback regulations help reduce the danger of conflagration, ensure that there is adequate room for emergency access between and around the properties and provide access to utilities. Building setback requirements also help provide a minimum degree of open space for light and air circulation, landscaping, recreational use, privacy (e.g., distance between neighbors to mitigate noise and odors), and space for maintenance on a home.

2. Potentially creates unfavorable effects or impacts on other existing or permitted uses on abutting sites that cannot be mitigated by the provisions of this section.

If the development plan were approved as now proposed, the most notable and potentially unfavorable effect from this development on abutting sites would stem from the inevitable increase in automobile traffic in this vicinity. However, any new residential development at this location would have a similar effect making adequate collector street access for the orderly

subdivision of this property and adjoining land so important.

3. Adversely affects the safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use and other uses reasonably anticipated in the area considering existing zoning and land uses in the area.

As mentioned above, the development plan proposes a network of local streets, which, once fully built-out, will connect all phases of this subdivision with local streets with a 50-foot right-of-way and at least 27 feet of pavement. The development plan also shows the dedication and improvement of collector-type streets transecting the subject property. A traffic study commissioned by the developers at the request of City staff concluded that no immediate off-site transportation system improvements are warranted in conjunction with this proposed subdivision. Staff therefore believes that the proposed development would not more adversely affect vehicular circulation in this vicinity than any other low density residential subdivision built on the subject property.

4. Adversely affects traffic control or adjacent properties by inappropriate location, lighting, or types of signs.

Staff contends that the proposed development will not adversely affect adjacent properties by inappropriate lighting, or types of signs. Allowable signage in residential districts is purposefully restricted. Signage in this residential subdivision advertising, for example, a home occupation, would be limited to a 1 square foot sign mounted to the front of the main building.

5. Fails to reasonably protect persons and property from erosion, flood or water damage, fire, noise, glare, and similar hazards or impacts.

Staff contends that the proposed development will reasonably protect persons and property from erosion, flood or water damage, noise, glare, and similar hazards or impacts, in conformance with applicable city ordinances. However, as mentioned above, staff is concerned that reducing the side building setbacks to 5 feet throughout the development could facilitate the conflagration of fire and inhibit emergency personnel's access to burning properties. Staff therefore believes that the proposed development does not reasonably protect people or property from fire hazards. Staff recommends that the standard minimum 7.5-foot side building setback also be required in this residential subdivision.

6. Will be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity, for reasons specifically articulated by the commission.

Staff is unable to discern any additional detrimental impacts not already identified in this staff report.

#### **RECOMMENDATION:**

Based on all of aforementioned considerations, staff recommends that the Planning and Zoning Commission recommend to the City Council to approve the requested PD-H zoning, subject to the requirement that minimum 7.5-foot building setbacks apply throughout the development and the following modifications to the development plan drawing:

- 1. Add note: "Lots to be developed with duplexes in Phases 6 and 7 of this development shall have a minimum lot width of 70 feet and minimum area of 7,000 square feet."
- 2. Amend note concerning lots fronting Kingsgate Drive and the major collector: "Lots fronting Kingsgate Drive and the major collector shall have adequate maneuvering space so vehicles will not be allowed to back directly into these streets."
- 3. Depict the extensions of Autumn Lake and Kingsgate Drives north of the major collector using the same grey "collector street" fill color used for depicting the remainder of these streets.

### **ATTACHMENTS:**

- 1. proposed PD-H zoning development plan
- 2. SDRC comments of April 30, 2013
- 3. Traffic Signal/Turn Lane Analysis by Alliance Transportation Group, Inc. of Austin, Texas
- 4. excerpt from the City of Bryan's Southwest Bryan's Highest and Best Use Study